

Prepared by and Return to:
Parker Poe Adams & Bernstein LLP
301 Fayetteville Rd., Suite 1400
Raleigh, North Carolina 27601
Attention: Rebecca B. Joyner

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

**MODIFICATION OF DEED OF TRUST
AND SECURITY AGREEMENT**

THIS MODIFICATION OF DEED OF TRUST AND SECURITY AGREEMENT (this "*Modification*") is entered into as of February __, 2015 by and among the **CITY OF DURHAM, NORTH CAROLINA**, a municipal corporation regularly created and validly existing under the laws of the State of North Carolina (the "*Grantor*"), **ASHLEY L. HOGEWOOD, JR.**, a North Carolina resident, as trustee (the "*Trustee*"), and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association, as successor to Deutsche Bank National Trust Company, as certificate trustee (the "*Certificate Trustee*") and as assignee of **NEW DURHAM CORPORATION**, a North Carolina nonprofit corporation (the "*Corporation*" and together with its successors and assigns, the "*Beneficiary*"), under the Indenture of Trust dated as of August 1, 2003 (the "*2003 Indenture*"), as supplemented by Supplemental Indenture, Number 1 dated as of May 1, 2005 (the "*First Supplement*") and as further supplemented by Supplemental Indenture, Number 2 dated as of May 17, 2012 (the "*Second Supplement*," and together with the 2003 Indenture and the First Supplement, the "*Indenture*"), each between the Beneficiary and the Certificate Trustee;

W I T N E S S E T H:

WHEREAS, under the Indenture, the Corporation has executed and delivered certain obligations, including Certificates of Participation, Series 2005B (the "*2005B COPS*"), Taxable Limited Obligation Bonds, Series 2012A (the "*2012A LOBs*") and Limited Obligation Bonds, Series 2012B (the "*2012B LOBs*"), each Evidencing Proportionate Undivided Interests in Rights to Receive Certain Revenues Pursuant to an Installment Purchase Contract dated as of May 1, 2005 (the "*First Contract Amendment*") and as further amended by Amendment Number Two to the Installment Purchase Contract dated as of May 17, 2012 (the "*Second Contract Amendment*," and together with the 2003 Contract and the First Contract Amendment, the "*Contract*") between the Corporation and the Grantor;

WHEREAS, Grantor previously executed and delivered to the Trustee, for the benefit of the Beneficiary, a Deed of Trust and Security Agreement dated as of August 1, 2003 and recorded in Book 4078, Pages 164-183 ("*2003 Deed of Trust*"), as extended pursuant to a Notice of

Extension to the Deed of Trust dated as of May 1, 2005 and recorded in Book 4790, Pages 671-684 (the “*Notice*,” and together with the 2003 Deed of Trust, the “*Deed of Trust*”) in the office of the Register of Deeds, Durham County, North Carolina (the “*Registry*”), encumbering the Premises (as defined in the Deed of Trust) and securing the Indebtedness (as defined in the Deed of Trust) under the Contract and the Deed of Trust, including future advances which may be made from time to time;

WHEREAS, for the purposes of this Modification, (a) the term Beneficiary includes all interests whatsoever of the Corporation and the Certificate Trustee, as assignee of the Corporation, under, by, and through the Deed of Trust and the obligations secured by the Deed of Trust, and (b) any other capitalized term used but not defined in this Modification has the meaning given to such term in the Contract and the Indenture;

NOW THEREFORE, in consideration of the recitals set forth above, and for other good and valuable consideration, the receipt and sufficiency of which the parties to this Modification hereby acknowledge, the parties to this Modification, intending to be legally bound, hereby agree as follows:

1. *Recitals.* The foregoing recitals are true and correct and form a material part of this Modification.

2. *Amendment to Section 1.14 of the 2003 Deed of Trust.* On the Effective Date, Section 1.14(2) of the 2003 Deed of Trust is deleted in its entirety and replaced with the following:

(2) In connection with the release of any part of the Premises constituting less than the entire Premises, the appraised, tax or insured value of the Premises remaining after the proposed release is not less than 110% of the aggregate principal components of the Installment Payments relating to the Certificates then Outstanding; and

3. *Ratification.* As of the date of this Modification, Grantor ratifies and confirms the lien and security interests of the Deed of Trust on the Premises and in any and all property, real, personal or mixed, tangible or intangible, and fixtures, now or hereafter acquired by Grantor and encumbered by the Deed of Trust, and Grantor transfers, assigns and grants to Beneficiary the benefit of a lien on and security interest in all such property now owned or hereafter acquired as security for the Indebtedness.

4. *Representations and Warranties.* Grantor hereby represents and warrants that it is has the power and authority to execute, deliver and perform this Modification.

5. *Effect of Modification.* Except as specifically modified by this Modification, the terms and conditions of the Deed of Trust remain in full force and effect as executed. Except as expressly provided in this Modification, nothing in this Modification in any way (a) alters, waives, annuls, varies or affects any provision, condition or covenant of the Deed of Trust or (b) affects or impairs any rights, powers or remedies provided under the Deed of Trust. This Modification is binding on and inures to the benefit of the successors and assigns of the parties to this Modification. This Modification does not constitute a novation of the Indebtedness, but constitutes only an amendment and modification of the Deed of Trust for the purposes specifically noted in this Modification.

U.S. BANK NATIONAL ASSOCIATION, as Certificate
Trustee and Beneficiary

By: _____
Its: _____

STATE OF NORTH CAROLINA)
)
COUNTY OF)

I, a Notary Public of the County and State aforesaid, certify that _____ (the “*Signatory*”) personally came before me this day and acknowledged that he/she is an _____ of U.S. Bank National Association, a national banking association, as Certificate Trustee and Beneficiary, and that he/she, in such capacity and being authorized to do so, executed the foregoing on behalf of U.S. Bank National Association in such capacity.

I certify that the Signatory personally appeared before me this day, and

(check one of the following)

____ (I have personal knowledge of the identity of the Signatory); **or**
 ____ (I have seen satisfactory evidence of the Signatory's identity, by a current state or
 federal identification with the Signatory's photograph in the form of:

(check one of the following)

____ a driver's license *or*
____ in the form of _____); **or**
(a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that she voluntarily signed the foregoing instrument for the purpose stated and in the capacity indicated.

Witness my hand and official stamp or seal this day of February, 2016.

Notary Public

Print: Name: _____
[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: _____
 ➡ [NOTARY SEAL] (MUST BE FULLY LEGIBLE)

[COUNTERPART SIGNATURE PAGE TO MODIFICATION OF DEED OF TRUST
AND SECURITY AGREEMENT DATED AS OF FEBRUARY __, 2016]

_____(SEAL)
ASHLEY L. HOGEWOOD, JR., as Trustee

STATE OF NORTH CAROLINA)
)
COUNTY OF MECKLENBURG)

I, a Notary Public of the County and State aforesaid, certify that Ashley L. Hogewood, Jr., as Trustee (the “*Signatory*”), personally appeared before me this day and acknowledged the execution of the foregoing instrument.

I certify that the Signatory personally appeared before me this day, and
(check one of the following)

_____ (I have personal knowledge of the identity of the Signatory); **or**
_____ (I have seen satisfactory evidence of the Signatory’s identity, by a current state or federal identification with the Signatory’s photograph in the form of:

(check one of the following)

_____ a driver’s license *or*
_____ in the form of _____); **or**
_____ (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that she voluntarily signed the foregoing instrument for the purpose stated and in the capacity indicated.

Witness my hand and official stamp or seal this _____ day of February, 2016.

Notary Public

Print: Name: _____

[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: _____

☞ [NOTARY SEAL] **(MUST BE FULLY LEGIBLE)**